

BOARD OF APPEALS CASE NO. 5019

*

BEFORE THE

APPLICANT: Shirley Angelini

*

ZONING HEARING EXAMINER

**REQUEST: Interpretation to extend the B3
District boundary 100 feet; 200 Mountain Road,
Joppa**

*

OF HARFORD COUNTY

*

Hearing Advertised

*

Aegis: 6/28/00 & 7/5/00

HEARING DATES: 8/7/00, 8/14/00 & 8/28/00

*

Record: 6/30/00 & 7/7/00

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicant, Shirley Angelini, pursuant to Section 267-10(B) of the Harford County Code, is seeking to extend the boundary of B3 zoning on the property by 100 feet. The original request filed by the Applicant also included a request pursuant to Section 267-10(C) and an area variance request pursuant to Section 267-11. Both of the latter requests were withdrawn by the Applicant at hearing on the matter.

The subject property is located at 200 Mountain Road (at the intersection of MD Rt. 152 and U.S. Rt. 1 in Fallston, Maryland. The parcel consists of 47.83 acres and is split-zoned AG/Agricultural, B3/General Business District and R2/Urban Residential. The parcel is more particularly identified on Tax Map 55, Grid 3C, Parcel 76. The subject parcel is located entirely within the Third Election District.

There was a great deal of testimony presented by the Applicant but much of it related to issues that were withdrawn by the Applicant. The following summary is a distillation of the relevant facts.

Findings of Fact:

The subject parcel is located at the intersection of Mountain Road (MD Rt. 152) and Belair Road (U.S. Route 1) in Fallston, Maryland. The parcel consists of nearly 48 acres and has 3 separate zoning classifications. Generally, the strip along Rt. 1 is zoned B3 and the remainder of the parcel is zoned R2 and AG. There is a day care facility located on Mountain Road on the north side of the parcel (approved pursuant to Board of Appeals Case No. 4882).

Case No. 5019 – Shirley Angelini

The corner of the parcel is owned by the State Highway Administration. Also, along Rt. 1 is a strip of wetland area. The request would create an additional area of B3 zoned property along Rt. 1. The depth of the current strip would increase 100 feet and extend for the entire zone north to south. Such a location for B3 zoning is consistent with the 1996 Land Use Element Plan in that the Plan contemplates commercial development being confined to strips along the Rt. 1 corridor in Fallston. The split-zoning on the property has existed since the 1957 Comprehensive Zoning Review and predates the enactment of the current zoning code. This is neither a request for special exception nor a request for a variance. The Department of Planning and Zoning recommends approval of the request.

There were a number of protestants present who were represented either by private counsel or People's Counsel. Margaret Attanasio, Esquire, People's Counsel, briefed her opposition in the matter and was joined in that brief by J. Carroll Holzer, Esquire, who represented a number of neighboring property owners.

CONCLUSION:

Section 267-10(B) provides as follows:

“Extension of a district: permitting the extension of a district if the boundary line of a district divides a parcel held in single ownership on the effective date of this Part 1, provided that such extension does not exceed one hundred (100) feet beyond the boundary line.”

At the onset, the Hearing Examiner notes that this parcel was subject to review by the Harford County Council during the most recently concluded Comprehensive Rezoning process wherein the property owner's request to rezone the parcel B3 was denied. In the instant case, the Applicant has demonstrated the criteria necessary to meet the standards required by 267-10(B) as recited above. The parcel is split-zoned and such split-zoning has existed in single ownership at least since the date of enactment of the Zoning Code (September 1, 1982). There was competent and un rebutted evidence that these criteria existed as early as 1957.

Case No. 5019 – Shirley Angelini

There is no question that the Applicant has met its burden of proof. The Harford County Code offers no criteria other than the pertinent language of Section 267-10(B). There is no guidance offered the Hearing Examiner allowing an examination of adverse impacts like there would be if this were a request for a variance or special exception. Even if there were such criteria, there was no evidence presented by the protestants that would lead to the conclusion that the extension of the B3 boundary on this property would have any adverse impacts different or greater than the extension of the zone on any other split-zoned property. In fact this type of zoning at this location is quite consistent with the Master Plan and Land Use Element Plan in Harford County. There will remain a substantial amount of acreage zoned either R2 or AG that will continue to serve as a buffer between the B3 commercial uses and the less intense uses associated with AG and R2 zoning.

The Hearing Examiner is mindful that this parcel was a specific issue during the Comprehensive Rezoning process; however, the request before the Council then was a rezoning of the entire parcel and this request is quite different. In this case, the Applicant seeks to enlarge by 100 feet, the B3 portion of the parcel that will add approximately 3 acres of B3 property to the parcel.

Having found no basis in the Code or existing case law that would lead to any other conclusion, the Hearing Examiner recommends approval of the Applicant's request.

Date OCTOBER 11, 2000

William F. Casey
Zoning Hearing Examiner